



General Assembly

January Session, 2017

Raised Bill No. 7162

LCO No. 4424



Referred to Committee on BANKING

Introduced by:
(BA)

AN ACT PROTECTING VICTIMS OF FRAUD BY CERTAIN FINANCIAL INSTITUTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2017*) (a) Any person who
2 suffers any ascertainable loss of money or property, real or personal, as
3 a result of the use or employment of a method, act or practice
4 prohibited by section 42-110b of the general statutes by any financial
5 institution, out-of-state bank or out-of-state credit union, each as
6 defined in section 36a-2 of the general statutes, or mortgage servicer, as
7 defined in section 36a-715 of the general statutes, may bring an action
8 in the name of the state of Connecticut in the judicial district in which
9 such person resides or is doing business for an order temporarily or
10 permanently restraining and enjoining the continuance of such
11 method, act or practice and for an order directing restitution. Proof of
12 public interest or public injury shall not be required in any action
13 brought pursuant to this section. The court may award the relief
14 applied for or so much as it may deem proper, including reasonable
15 attorney's fees, accounting and such other relief as may be granted in
16 equity.

17 (b) An action commenced under subsection (a) of this section may
18 allege violations of section 42-110 of the general statutes that have
19 affected other persons similarly situated who are residents of this state
20 or injured in this state.

21 (c) Any person commencing an action pursuant to subsection (a) of
22 this section shall mail a copy of the complaint by certified mail, return
23 receipt requested, to the Attorney General and the Commissioner of
24 Consumer Protection not later than five days after the date such
25 complaint is filed with the court. Such action shall be automatically
26 stayed until thirty days after the complaint and letter are received by
27 the Attorney General and the Commissioner of Consumer Protection.
28 The Attorney General may intervene as plaintiff in the action and
29 prosecute any and all claims asserted in the complaint in the place and
30 stead of the person who initiated the action: (1) As of right during the
31 period of such automatic stay, and (2) for good cause shown after the
32 expiration of such automatic stay. Except as provided in subsection (d)
33 of this section, the Attorney General may dismiss or settle any action in
34 which it intervenes as plaintiff, notwithstanding any objection by the
35 person commencing the action. No person other than the Attorney
36 General may intervene in any action commenced under this section.

37 (d) The court shall review any proposed agreement to settle an
38 action commenced under this section. If the Attorney General has not
39 intervened in the action, the proposed settlement agreement shall be
40 submitted to the Attorney General at the same time such agreement is
41 submitted to the court for review. The Attorney General shall have two
42 weeks to oppose the proposed settlement by sending a letter by
43 certified mail, return receipt requested, to the court and all parties to
44 the proposed settlement. If the Attorney General opposes the proposed
45 settlement, the court shall not approve such settlement.

46 (e) Any financial institution, out-of-state bank, out-of-state credit
47 union or mortgage servicer who violates the terms of a temporary or
48 permanent restraining order or an injunction issued pursuant to

49 subsection (a) of this section shall forfeit and pay to the state a civil
50 penalty of not more than twenty-five thousand dollars per violation.
51 For the purpose of this section the court issuing the injunction shall
52 retain jurisdiction, and the cause shall be continued, and in such cases
53 the Attorney General or the person acting in the name of the state may
54 petition for recovery of civil penalties.

55 (f) If the court finds that a financial institution, out-of-state bank,
56 out-of-state credit union or mortgage servicer is wilfully using or has
57 wilfully used a method, act or practice prohibited by section 42-110b of
58 the general statutes, the state may recover, upon petition of the
59 Attorney General or the person acting on behalf of the state, a civil
60 penalty of not more than five thousand dollars for each violation. For
61 the purposes of this subsection, a wilful violation occurs when the
62 party committing the violation knew or should have known that such
63 party's conduct was a violation of section 42-110b of the general
64 statutes.

65 (g) In any action where the state recovers a settlement payment or
66 civil penalty pursuant to subsection (e) or (f) of this section, the court
67 shall award (1) not more than ten per cent of the total amount
68 recovered by the state to the person who initiated the action, provided
69 the Attorney General intervened in such action pursuant to subsection
70 (c) of this section, and (2) not more than twenty-five per cent of the
71 total amount recovered by the state to the person who initiated such
72 action, provided the Attorney General did not intervene in the action
73 pursuant to subsection (c) of this section.

74 (h) Any action commenced under this section shall be prosecuted on
75 behalf of the state and no arbitration agreement executed by the person
76 commencing such action shall waive or limit such person's right to
77 prosecute such action in the name of the state.

78 (i) An action commenced under this section shall not prevent any
79 person from bringing an action for damages pursuant to section 42-

80 110g of the general statutes, nor shall a prior action brought pursuant
81 to section 42-110g of the general statutes prevent any person from
82 bringing an action under this section.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2017</i>	New section
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Statement of Purpose:

To allow private citizens to file lawsuits on behalf of the state to enforce violations of the Connecticut Unfair Trade Practices Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]